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E.O. 12958: N/A
TAGS: [ECON](#) [ETRD](#) [KIPR](#) [CA](#)
SUBJECT: IPR: MICHAEL GEIST SHARES HIS VIEWS WITH EMBASSY
OTTAWA

REF: MONTREAL 150

¶1. (SBU) SUMMARY: On April 12, the DCM and other Embassy officers met with University of Ottawa Law Professor Michael Geist, who is a prominent public commentator on intellectual property rights (IPR) issues, to discuss Canadian copyright issues. As expected, Geist's views were generally at odds with U.S. policy. He disputed that Canada has a major problem with camcording in movies theaters, opposed legal protection for digital rights management (DRM), and characterized the current state of copyright law in Canada as "not too bad". Geist commented that the expected government copyright bill, possibly to be introduced later this spring, would likely be a political liability for Prime Minister Harper's minority government. Furthermore, Geist claimed that his views were becoming more popular and that the longer the government delays copyright legislation, the more seriously his viewpoints will need to be considered. END SUMMARY.

¶2. (SBU) On April 12, the DCM and other Embassy officers met with Michael Geist, University of Ottawa Law Professor and frequent Canadian public commentator on IPR issues, to hear his views on expected copyright legislation. Geist runs a popular blog that discusses IPR-related issues and regularly writes columns on the subject that are published by major Canadian newspapers. Geist's views, while generally at odds with U.S. policy, are taken seriously by the Canadian public, academia, and members of the Canadian government. Geist defended current Canadian policies and stated that Canada meets all international treaty copyright obligations even though it has not yet formally implemented the WIPO Internet Treaties.

DRM

¶3. (SBU) Geist stated that he was opposed both to mandated DRM and legal protection for DRM. He claimed that market pressures were already undermining DRM, citing the recent decision by Apple and EMI to sell DRM-free music on iTunes as an example. Geist also stated that numerous Canadian artists had decided that P2P (peer-to-peer) file sharing of their music was good for their business because it expanded consumer awareness of their product, increased sales, and increased concert ticket revenues. Geist commented that it was also no longer a good business model for artists to rely on income from music sales and that this a losing battle -- with or without DRM. He cited several prominent Canadian artists to support his case. When we pointed out that the individuals he mentioned were already established and did not need to worry about their popularity with the public, Geist

tried to argue that this business model would also be advantageous for unknown artists.

Camcording

14. (SBU) Geist disputed industry claims that Canada has a major problem with camcording in movie theaters. (Comment: The Canadian Motion Picture Distributors Association claims that camcording in Canada is a significant source of pirated movie DVDs worldwide. End Comment.) He stated that that industry was overstating their case and that camcorded copies of movies simply do not make up a large portion of the illegal market. Geist believes that relatively few titles are targets of camcording and that the "inferior" copies produced are soon superseded by legitimate DVDs when these become available to the public a few months after a movie is released to theaters. Although Geist conceded that theater Qreleased to theaters. Although Geist conceded that theater camcording is "not a good thing" because it violates the creator's copyright and it distorts an artist's work, he questioned the need for imposing criminal penalties for the simple act of theater camcording. (Comment: Embassy will contact movie and theater industry representatives in Montreal to see if they would be interested in discussing camcording with Geist. He may be unaware of the measures they are taking to cope with this problem, which seems to be growing. End Comment)

Copyright Law

15. (SBU) Geist stated that new copyright law legislation would be controversial -- as well as a political liability if national elections were called. (Comment: Prime Minister

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Harper,s chief domestic advisor told Economic Minister-Counselor on April 16 that the Harper government continues to see a revision of the copyright law as a matter of urgency and said that the bill would be introduced in Parliament later this spring, a prediction he caveated by saying that this assumes that there would not be a spring federal election. End comment.) Geist suggested that competing interests could produce a more restrictive, less advantageous copyright regime in Canada than currently exists. That said, Geist stated that some changes he would like to see include:

- Expansion of Canada's limited fair use/fair dealing provisions for copyrighted works;
- Downward adjustment of statutory damage provisions for copyright violations;
- Allowing greater public access to government copyrighted works; and
- Institutionalization of the "notice and notice" system for Internet Service Providers.

16. (SBU) Geist stated that the United States' fair use provisions and access to publicly owned works could be good models for Canada. He also commented that a solid fair use provision in a new copyright bill would go "a long way" towards placating parties opposed to stronger IPR protection.

17. (SBU) Geist was pleased by the invitation to discuss IPR issues at the Embassy. Well-informed and articulate on these technical issues, Geist has become the media source of choice to balance out the growing chorus of commentators worried about Canada's lax IPR protection regime. His acknowledgement that Canada is a net importer of copyrighted materials helps explain the advantage he would like to hold on to with a weaker Canadian UPR protection regime. His unvoiced bias against the (primarily U.S. based) entertainment industry also reflects deeply ingrained Canadian preferences to protect and nurture homegrown artists.

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